

# CITY OF TUCSON

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## DEVELOPMENT REVIEW BOARD

### RULES OF PROCEDURE

These rules are established according to Section 5.1.8 of Division 1 of Article V of the Tucson Land Use Code. Three (3) copies of these rules are filed with the Tucson City Clerk to be kept as permanent public record. Copies of these rules are available from the Planning Department, 3rd Floor Offices, 255 West Alameda Street, for a fee as established by the Planning Director.

### Rules of Procedure

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TABLE OF CONTENTS PAGE: 1, 2, 3

1.	<u>Composition</u> .....	4
	Appointment , Qualification, Term, Vacancies, Removal.	
2.	<u>Administrative Functions</u> .....	4
	Election of Officers	
	Chair,	
	Vice Chair,	
	Interim Chair.	
	Meetings .....	5, 6
	Time and Date, Place,	
	Notice,	
	Agenda,	
	Presentation of cases.	
	Applicant's responsibility .....	6, 7
	Applicant fails to appear,	
	Orderly Procedure.	
	Quorum and Voting .....	7, 8
	Quorum,	
	Conflict of Interest,	
	Voting.	
	Motions, Pass, Change of Vote, Suspension of Rules.	
	Records (and Duties of Staff) .....	8
	Planning Department,	
	Applications	
	Transmittal of materials .....	9
	City Attorney,	
	Rules of Procedure	
	Robert's Rules of Order.	
	Required Action,	
3.	<u>Powers and Duties</u> .....	9, 10
	Scenic Corridor Zone (SCZ) Development Review,	

Table of Contents (Continued)

Scenic Corridor Zone (SCZ) Variances .....	10, 11
Lot Development Option (LDO) Appeals, Project Design Option (PDO) Development Review, Environmental Resource Zone (ERZ) Mitigation Plan Appeals, Environmental Resource Zone (ERZ) Variances.	
Landscaping and Screening Regulations Variances .....	11
Gateway Corridor Zone Variances	
Native Plant Preservation Variances .....	11, 12
Neighborhood Commercial (NC) Zone Development Review, Office (O-1) Zone Development Review.	
Communications Land Use Development Review (Type I) .....	12
Communications Land Use Development Review (Type IV) Communications Land Use Development Review (Type V). Communications Land Use Development Review (Type III), Home Occupation: Travelers' Accommodation Lodging Development Review, Historic Preservation Zone (HPZ) Appeals .....	12, 13
Other DRB responsibilities.	

1. Composition. The DRB consists of seven (7) members, of whom five (5) are regular members and two (2) are alternates.
  - A. Appointment. Any member of the Mayor and Council may make a recommendation for appointment of a DRB member. Such appointments are made by a majority vote of the Mayor and Council. The DRB members must be city residents. All members of the DRB serve without compensation.
  - B. Qualification. Of the seven (7) members, there shall be at least one (1) registered architect, one (1) contractor, and two (2) registered landscape architects.
  - C. Term. The term of each member is four (4) years, beginning with the date of appointment. Members are eligible for reappointment but shall not serve more than eight (8) continuous years. After the eight (8) continuous years of service, a member becomes eligible for reappointment after a break in service of one (1) year.
  - D. Vacancies. An appointment to fill an unexpired term shall be considered a new appointment.
  - E. Removal. A member of the DRB may be removed with or without cause by a majority vote of the Mayor and Council. A member who misses four (4) consecutive meetings for any reason or fails to attend for any reason at least forty (40) percent of the DRB meetings held in one (1) calendar year is automatically and immediately removed as a member of the DRB.
2. Administrative Functions. The DRB administrative functions shall be accomplished as follows:
  - A. Election of Officers. The DRB shall elect a Chair and Vice Chair from among its regular members in February of each year. The terms of the Chair and Vice Chair are for one (1) year. Should both the Chair and Vice Chair be absent from a meeting, an interim Chair shall be voted upon by those members attending.
    1. Chair. The chair presides at all meetings, preserves order, and decides all points of order and procedure, subject to appeal to membership. The chair may vote on all matters, except upon the chair's own rulings.
    2. Vice-Chair. In the event of absence or disability of the chair, the vice-chair presides.
    3. Interim Chair. In the absence of both, members appoint an interim chair for that meeting by majority vote.

B. *Meetings.* The DRB shall hold meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.

1. *Time and Date.* Meetings are scheduled to be held every other Friday beginning at 7:30 A. M. However, the DRB may hold as many regular meetings as may be necessary to conduct its business in a timely manner.
2. *Place.* Meetings are held in the Mayor and Council's staff room, 1st Floor City Hall, 255 West Alameda Street. When deemed necessary, the meetings may be held in the Planning Department, 3<sup>rd</sup> Floor City Hall, Large Conference Room or other locations as posted.
3. *Notice.* The Planning Department provides notice of the meetings to the DRB members and to the public not less than 48 hours prior to the meeting time, as required by the open meeting law.
  - a. The Planning Department mails out copies of the agendas the Friday before the scheduled meeting date.
  - b. The City Clerk also posts a copy of the DRB agenda on the outside of City Hall 48 hours prior to the scheduled meeting date.
4. *Agenda.* The Planning Department prepares an agenda for each meeting, listing the matters of business in the following order.
  - a. Call to order - i.e. the recording of members present and absent.
  - b. Continued cases.
  - c. Reconsidered cases.
  - d. New cases.
  - e. Other business - i.e. matters for DRB action not part of the review of cases.
  - f. Adjournment.
5. *Presentation of Cases.* The presentation of cases will normally follow this order:
  - a. The Planning Department's report.
  - b. The applicant's presentation.

- c. Presentation by persons, other than the applicant, if recognized by the Chair.
  - d. Rebuttals as permitted by the Chair.
  - e. Close of the review, discussion and recommendation by the DRB.
- 6. *Applicant's Responsibility.* The applicant is responsible for the submittal of case materials to the Planning Department per the filing schedule.
  - a. The applicant is also responsible to attend the scheduled meeting and present, to the DRB, arguments in support of the case.
  - b. All materials submitted to the DRB are entered as evidence into the record.
- 7. *Applicant fails to appear.* If the applicant makes no appearance at the meeting, the DRB may:
  - a. Continue the case review to another meeting, or
  - b. Dispose of the matter on record after the Planning Department's report and the review of the submitted materials.
- 8. *Orderly procedure.* Orderly procedure requires that each presentation proceed without interruption.
  - a. No person is permitted to speak unless recognized by the Chair, who may permit persons to speak on any agenda item.
  - b. All discussion is to be addressed to the DRB. Questioning or argument between individuals in attendance at the meeting will not be permitted.
  - c. When a member of the DRB, staff or the applicant wishes to speak, that person must first address the Chair to be recognized. Upon being recognized, the person states their name then speaks.
  - d. When more than one member addresses the Chair, the Chair decides who is to speak first.

- e. The Chair and DRB members may direct any question to any person speaking in order to bring out relevant facts, circumstances and conditions affecting the case, and may call for questions from staff.
- f. A majority vote of the membership is needed to take any matter under advisement for later consideration and determination, or to defer action when it is concluded that additional material is needed or further study is required.

C. *Quorum and Voting.* Decisions by the DRB are made by majority vote of the quorum present and voting.

- 1. *Quorum.* A quorum requires that there be a minimum of three (3) members of the DRB (regular or alternates) present at the meeting and voting.
- 2. *Conflict of Interest.* A member will not vote where there is a conflict of interest. The Planning Department or the DRB may direct questions relating to conflict of interest to the City Attorney's Office.
- 3. *Voting.* Any member other than the Chair may make motions related to decisions and recommendations. To be voted on by the Board, all motions must be seconded. The Chair can second any motion. A motion will fail for lack of a second.
  - a. *Motions.* Motions may be determined by voice vote, or at the request of any member or by direction of the chair, by roll call. The chair declares all votes. If any member doubts the vote, a roll call is ordered.
    - 1. All motions by the DRB to decide or recommend on an application require a majority of "aye or yes" votes from those present and voting to pass.
    - 2. A motion that does not get a majority of "aye/yes" votes from the quorum, fails. On all tie votes the motion fails.
  - b. *Pass.* Failure of a member to vote on a motion "passes". On a roll call where a member passes on a vote the Chair is to call for a second roll call. Should the same member "pass" a second time, the member's vote is to be counted as a "aye" or "yes" vote for the motion.
  - c. *Change of Vote.* After completion of a roll call any member may change his or her vote provided the change occurs before the announced result.

- d. *Suspension of Rules.* A unanimous vote of those present and voting is required to suspend any rule of the DRB.

D. *Records (and Duties of Staff).* The Planning Department shall maintain the public records of the DRB. The City Attorney's Office shall provide the DRB with legal council when necessary.

1. *Planning Department.* The Planning Department assigns staff to attend all DRB meetings and to provide assistance as needed.

- a. *Applications.* DRB applications are made on forms prepared by the Planning Department.

1. Applications are submitted to the Planning Department, 3rd Floor Offices, City Hall, 255 West Alameda Street.
2. Application submittals must be filed no later than 4:30 P.M. on the Thursday the week before the scheduled DRB meeting.
3. Only complete submittals are accepted by staff and forwarded to the DRB for review and recommendation.
  - a. To be deemed complete, a submittal must include: the application and attachment, the project's site plan, the existing landscape plan, the future landscape plan, the appropriate photos of the site, and the filing fees when required.
4. The property owner must sign the application. The owner is that property owner on record with the Pima County Assessor's Office, 1st Floor, South Wing, 115 North Church Avenue. A letter from the property owner acknowledging the filing of the application, by the owner's agent or representative, is an acceptable substitution.
5. The attachment to the application states the need for the application, and the reasons why the request should be granted.
6. Application submittals accepted by staff are issued a case number and placed on the next available agenda in numerical order except for continued or reconsidered cases.



- b. *Transmittal of materials.* After the DRB decides on the matter before them, the transmittal of materials to the applicant, Planning Director, Board of Adjustment or to the Zoning Examiner is the responsibility of the Planning Department.
          1. The materials shall include the decision or recommendation of the DRB and, if applicable, the conditions imposed with the decision or recommendation.
          2. The materials shall include any written minority opinion filed by any member or members.
          3. Official decisions and minutes of the DRB are recorded and kept as a permanent public record in the Planning Department.
      2. *City Attorney.* The City Attorney or a designated representative is the legal counsel for the DRB.
        - a. When needed, counsel advises the DRB on it's jurisdiction and gives legal advice to the Board.
        - b. Advice of counsel is received and entered in the minutes before resolution of any question or matter requiring legal interpretation or advice.
    - E. *Rules of Procedure.* The DRB shall adopt rules of procedures necessary to carry out its functions. Copies of such rules shall be available to the public through the Planning Department.
      1. Robert's Rules of Order will govern the actions of the DRB not covered by these Rules of Procedures or by the Land Use Code.
    - F. *Required Action.* Applications reviewed for the purpose of providing a recommendation to another board, committee, official, or the Mayor and Council for a decision shall be forwarded without a recommendation should the DRB fail to act within twenty-one (21) days of the date a plan is accepted for review by the DRB. Action by the DRB to continue deliberation to another meeting shall stay the twenty-one (21) day requirement.
  3. *Powers and Duties.* The DRB and staff perform the following duties:
    - A. *Scenic Corridor Zone (SCZ), Development Review.* The DRB reviews development applications for projects located within an SCZ, when requested by the Development Services Department (DSD), 201 North Stone Avenue or applicant, as provided in Sec. 2.8.2.11.A, and in accordance with [Sec. 2.3.1,

Appeal Procedures I, Chapter 23A of the Tucson Code] Note: This referenced Section assumes future adoption by Mayor and Council action.

1. In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Sec. 2.8.2.11.B, required of the DSD in making the decision.
- B. *Scenic Corridor Zone (SCZ), Variances.* The DRB reviews, for recommendation, all requests for variances from SCZ provisions, as provided in Sec. 2.8.2.15.
1. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance.
  2. The DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- C. *Lot Development Option (LDO), Appeals.* The DRB reviews, for recommendation, appeals of Planning Director decisions on LDO applications in accordance with Sec. 5.4.4.5, Type V Appeal Procedure.
- 1 In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Sec. 5.3.4, required of the Planning Director in making the decision.
  2. The DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- D. *Project Design Option (PDO), Development Review.* The DRB reviews, for recommendation, requests to modify general provisions of the LUC, as provided in Sec. 5.3.5, and in accordance with Sec. 5.4.3.7, Type VII Administrative Procedure.
1. In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Sec. 5.3.5, required of the Planning Director in making the decision.
  2. The DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- E. *Environmental Resource Zone (ERZ) Mitigation Plan, Appeals.* The DRB reviews, for recommendation, appeals of DSD decisions on ERZ mitigation plans, as provided in Sec. 2.8.6.8.B, and in accordance with [Sec. 2.3.2, Appeal Procedures II, Chapter 23A of the Tucson Code] Note: This referenced Section assumes future adoption by Mayor and Council action.

1. In formulating its recommendation, the DRB shall utilize the same criteria required of the DSD in making the decision.
  2. The DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- F. *Environmental Resource Zone (ERZ), Variances.* The DRB reviews, for recommendation, all requests for variances from ERZ regulations, as provided in Sec. 2.8.6.8.A.
1. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance.
  2. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts, which may occur should the request be granted.
- G. *Landscaping and Screening Regulations, Variances.* The DRB reviews, for recommendation, all requests for variances from Sec. 3.7.0, Landscaping and Screening Regulations, as provided in Sec. 3.7.7.5.
1. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance.
  2. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- H. *Gateway Corridor Zone, Variances.* The DRB reviews, for recommendation, all requests for variances from Gateway Corridor Zone regulations, as provided in Sec. 2.8.4.5.
1. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance.
  2. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- I. *Native Plant Preservation, Variances.* The DRB reviews, for recommendation, all requests for variances from Native Plant Preservation regulations, as provided in Sec. 3.8.8.3.
1. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance.

2. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- J. *Neighborhood Commercial (NC) Zone, Development Review.* The DRB reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area, as provided in Sec. 2.5.2.6.D.
- K. *Office (O-1) Zone, Development Review.* The DRB reviews all new office development in the O-1 zone, including Medical Service – Outpatient, as provided in Sec. 3.5.4.11.G.
- L. *Communications Land Use, Development Review.* The DRB reviews, for recommendation when requested by the Planning Director, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type I Administrative Procedure, Sec. 5.4.3.1, as provided in Sec. 3.5.4.20.D.
- M. *Communications Land Use, Development Review.* The DRB reviews, for recommendation, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type IV Administrative Procedure, Sec. 5.4.3.4, as provided in Sec. 3.5.4.20.E.
- N. *Communications Land Use, Development Review.* The DRB reviews, for recommendation when requested by the Zoning Examiner, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type V Administrative Procedure, Sec. 5.4.3.5, as provided in Sec. 3.5.4.20.F.
- O. *Communications Land Use, Development Review.* The DRB reviews, for recommendation when requested by the Mayor and Council, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type III Legislative Procedure, Sec. 5.4.2.3, as provided in Sec. 3.5.4.20.G.
- P. *Home Occupation: Travelers' Accommodation, Lodging, Development Review.* The DRB reviews all Home Occupation: Travelers' Accommodation, Lodging, land uses in the various zones in which the use is permitted, as provided in Sec. 3.5.7.4.F.
- Q. *Historic Preservation Zone (HPZ), Appeals.* The DRB reviews, for recommendation, as provided in Sec. 5.4.4.6.C, Type VI Appeal Procedure, any appeal of a Planning Director decision which was made in compliance with the procedural requirements of a Type X Administrative Procedure, Sec. 5.4.3.10.
1. The DRB recommendation shall be based on the purpose of

the HPZ and the specific criteria for development listed in  
Sec. 2.8.8.6.

- R. *Other Responsibilities.* The DRB shall perform such other  
functions as may be required by the LUC.

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